

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 2520

SPONSOR: Governmental Oversight & Productivity Committee, Military and Veterans' Affairs, Base Protection, and Spaceports Committee and Senator Jones

SUBJECT: Florida Wreck-reaction Diving Trail Act

DATE: April 12, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Kiger</u>	<u>NR</u>	<u>Fav/2 amendments</u>
2.	<u>Vickers</u>	<u>Krasovsky</u>	<u>MS</u>	<u>Fav/CS</u>
3.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This Committee Substitute for Committee Substitute for Senate Bill 2520 creates the Great Florida Wreck-reaction Diving Trail Act to promote ecotourism associated with recreational diving and fishing in Florida through the placement of U.S. Maritime Administration (MARAD) and U.S. Navy decommissioned vessels in Florida waters as artificial reefs. Creates the Florida MARAD and U.S. Navy Vessel Placement Council within the Office of Tourism, Trade, and Economic Development. Provides that the Council shall be considered the artificial reef coordinator for Florida for purposes of the U.S. Department of Transportation transfer of obsolete MARAD and Navy vessels program. Provides membership and duties.

This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

On November 25, 2003, President Bush signed the National Defense Authorization Bill, HR 1588. Section 1013 of that bill provides that the Secretary of the Navy may transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register to any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof for use as an artificial reef.

On occasion, the Navy has used unneeded ships as targets for military exercises know as SINKEX or sinking exercises. However, now these obsolete Navy vessels may serve as artificial reefs which will help promote marine life and fishing and relieve pressures on natural "coral" reefs. The Navy's objective by seeking this program was to reduce the size of the inactive ships inventory in a cost-effective and environmentally sound manner.

Prior to the signing of HR 1588, the Navy disposed of its non-combatant ships through the U.S. Maritime Administration (MARAD), which is the government's disposal agent for merchant type vessels of 1,500 gross tons or more. MARAD has had statutory authority since 1972 to donate obsolete vessels to states for sinking as artificial reefs. The Naval Sea Systems Command (NAVSEA) has worked with MARAD to develop a common process for the donation of "federal" ships for artificial reefing.¹

The first warship offered for donation by the Navy for sinking as an artificial reef is the ex-Oriskany. The Oriskany, the last Essex-class aircraft carrier in the fleet's inactive ship inventory, served the Navy for more than 25 years during the Korean War and the Vietnam conflict. The ship was decommissioned September 1976.

In anticipation of this program receiving approval through the passage of HR 1588, the Fish and Wildlife Conservation Council (FWCC) in May 2003 began the process of notifying the federal government of Florida's interest in obtaining the Oriskany for placement as an artificial reef somewhere in Florida. In Florida, local governments hold title to most permitted reef sites. The FWCC holds the permit to two sites off Escambia County. There are only five counties in Florida with sites having active permits that are deep enough to accept the Oriskany – Escambia, Okaloosa, Palm Beach, Broward and Dade.² Ultimately, the FWCC selected Escambia County as the site for the Oriskany if Florida was chosen to receive the ship for sinking as a reef. Besides Florida, the other states that have applied for the Oriskany are Mississippi, Texas and a joint application by Georgia and South Carolina. To date, a decision has not be made by the Navy and MARAD on which state would receive the Oriskany.

The Inactive Ship Program currently has an additional 24 ships available for reefing. The Navy's goal is to move a third of the 24 ships this year.

Chapter 20, F.S., provides for the organizational structure of executive branch agencies. That chapter provides definitions for the various entities that are created by the Legislature in the executive branch. Section 20.03(10), F.S., defines a "Council," unless otherwise required by the State Constitution, to mean

. . . a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.

Section 20.03(7), F.S., defines a council to mean

. . . an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or

¹ *ex-USS Oriskany to Serve as Artificial Reef*, Navy Newstand, 2/9/004

² Summary Document: Acquiring and Siting the USS Oriskany, Florida Fish and Wildlife Conservation Council, Division of Marine Fisheries, July 2003.

program area of state government and to provide recommendations and policy alternatives.

Section 20.03(8), F.S., defines a “committee” or “task force” to mean

. . . an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.

Section 20.052, F.S., establishes requirements for collegial bodies created by statutory enactment as an adjunct to an executive agency. The section provides that an entity of this sort:

- < May be created only when it is found to be necessary and beneficial to the furtherance of a public purpose.
- < Must be terminated when it is no longer necessary and beneficial to the furtherance of a public purpose.
- < Must keep the Legislature and the public apprised of its numbers, purposes, memberships, activities, and expenses.
- < Must meet its statutorily defined purpose.
- < Must meet the proper definition contained in s. 20.03, F.S.
- < Must have board members who are appointed for 4-year staggered terms.
- < Must have members who serve without additional compensation or honorarium, though per diem and reimbursement for travel are authorized.
- < Must have private citizen members who are appointed by the Governor, Cabinet Officer, or the head or executive director of the department.
- < Must have its members confirmed by the Senate if a Council or board of trustees and must be subject to the dual-office holding prohibitions of s. 5(a), Art. II of the State Constitution.
- < Must maintain minutes of meetings.
- < Must store its records within 30 days of dissolution with the body to which it was created as an adjunct entity.

III. Effect of Proposed Changes:

The Committee Substitute for Committee Substitute for Senate Bil 2520 creates the Great Florida Wreck-reation Diving Trail Act of 2004. The purpose of the act is to promote ecotourism associated with recreational diving and fishing in Florida through the placement of U.S. Maritime Administration (MARAD) and U.S. Navy decommission vessels in Florida waters as artificial reefs.

The bill creates the Florida MARAD and U.S. Navy Vessel Placement Council within the Office of Tourism, Trade, and Economic Development.. The Council shall be considered the artificial reef coordinator for Florida for purposes of the U.S. Department of Transportation transfer of obsolete MARAD and Navy vessels program. The Council shall consist of the following five members:

- Three members representing recreational scuba diving in Florida, one of whom shall be appointed by the Speaker of the House of Representatives, one of whom shall be appointed by the President of the Senate, and one of whom shall be appointed by the Governor.
- One member representing recreational fishing interests and one member representing the tourism industry in Florida, one of whom shall be appointed by the President of the Senate, and one of who shall be appointed by the Speaker of the House of Representatives.

Commission appointments are to be made no later than September 1, 2004.

The Governor shall designate one member of the Council as its chair. Vacancies in the membership of the Council shall be filled in the same manner as the original appointments. The Council must meet at least quarterly, and shall establish procedures for its operations. Members shall serve without compensation, but are entitled to per diem and travel expenses. Each member is required to file full and public disclosure of financial interests. Records and meetings are subject to ch. 119, F.S., and s. 286.011, F.S.

The OTTED is required to provide administrative support to the council. The council, however, is authorized to accept private donations to support council activities. The council shall maintain a complete financial record of all donations and expenditures and must file a financial report with the Auditor General annually.

As the coordinator for the artificial reef program, the Council reviews applications from Florida counties and municipalities for placement of MARAD and U.S. Navy decommissioned vessels in Florida waters as artificial reefs. The Council shall receive donation transfer applications for such vessels and, using the MARAD application evaluation criteria, as amended, shall recommend to the Governor sites within the state for placement of such vessels. The Council shall develop a master site plan for the purposes of maximizing the number and type of vessels for placement in Florida waters. Criteria shall include placement of vessels in a geographically dispersed manner.

The Council shall receive and request interagency comments from local artificial reef permitting agencies, the Department of Environmental Protection, and the Game and Wildlife Conservation Council.

The bill provides for the expiration of the Council on December 31, 2006, unless reenacted by the Legislature. Prior to termination, all documents and remaining assets must be transferred to the OTTED.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The sinking of these obsolete Navy vessels as artificial reefs will increase and enhance the diving and saltwater fishing opportunities in Florida. As a result, it is expected that this will attract more visitors to Florida who dive and fish. The economic impact cannot be quantified at this time, but it could be substantial.

C. Government Sector Impact:

The local governments who may receive these vessels for sinking in waters off their coasts would incur costs in the form of matching funds to help defray the costs of towing and sinking. The Navy is responsible for the costs associated with cleaning the vessels and making them environmentally safe. The local governments' contributions are a factor that is considered by MARAD and Navy for locating the ships. This would demonstrate that the local governments have an active interest in the program. The benefits would come from increased tourism and the revenue it generates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.